

BUREAU OF INSURANCE RULE CHAPTER 275  
MEDICARE SUPPLEMENT INSURANCE  
2014 AMENDMENTS

BASIS STATEMENT AND SUMMARY OF COMMENTS

Chapter 275 has been amended pursuant to the Notice of Rulemaking issued May 15, 2014. A public hearing was convened on June 18, 2014, and the public comment period was held open until June 30, 2014. Rule 275 was originally adopted in 1992 to standardize benefits of Medicare supplement policies pursuant to federal law and to establish standards for policy terms, disclosure, and rating. The rule was amended in 1993, 1996, 1999, 2000, 2003, 2005, and 2009.

The purposes of the 2014 amendments are summarized below:

- Implement Resolve 2013 Chapter 19, which directs the Bureau of Insurance to amend its rules to clarify that Medicare Advantage enrollees who change Medicare Advantage plans during their three year trial period do not lose their Medicare supplement guaranteed issue rights as a result of the change. The amendments also clarify that similar rights may apply to certain other programs;
- Clarify the requirement for an extension of benefits during a period of total disability;
- Requires a notice of rate increase for an older plan to include notice of the right to exchange that plan for a current standardized plan;
- Clarify the limitation on preexisting condition exclusions for persons who enroll in a Medicare supplement plan during an open enrollment period;
- Clarify Medicare supplement guaranteed issue rights for dual eligible beneficiaries who lose eligibility for medical benefits under Medicaid;
- Require certain notices of guaranteed issue rights to include an explanation of the Medicare Advantage three year trial period;
- Require carriers to monitor and assess the accuracy of information provided to consumers by outside entities or associations, with particular attention to guaranteed issue rights and other state-specific issues that cannot be addressed accurately by nationally uniform materials;
- Add a reporting requirement for enrollees who have Medicare supplement and Medicare Advantage plans with the same carrier;

- Clarify that if Medicare supplement Plan A coverage is issued on a guaranteed issue basis pursuant to 24-A M.R.S.A. § 5012, the issuer shall not apply a preexisting condition exclusion; and
- Provide for miscellaneous corrections and clarifications.

No members of the public testified at the June 18, 2014 public hearing. The Bureau received two written comments.

Comment: Anne Smith, the Medicare Rights Advocate with Legal Services for the Elderly, submitted a written comment advising that the dollar figures set out in the rule for Medicare costs are now out of date.

Bureau Response: Various dollar figures such as the Part A Deductible, Part B Deductible and Out-of-Pocket Limits are out of date, primarily but not exclusively in the charts in the Outline of Coverage Requirements at Section 17(D). However, these dollar figures are set out in brackets (indicating they are subject to change), and most of these types of dollar figures are updated by CMS on an annual basis. Even if these dollar figures were updated in the current amendments to the rule, they would be out of date once again by next year. Carriers universally rely on CMS updates and not on the bracketed dollar figures in the rule. Further, consumers, senior services organizations, and insurance producers almost universally look to the policy itself, to CMS publications, and to the Bureau's Medicare supplement brochure for specific dollar information. The Bureau's Medicare supplement brochure is updated much more frequently than the rule. Therefore the Bureau has elected not to update variable dollar figures in this round of amendments.

Comment: Susan McKay, a licensed producer, submitted a number of written questions regarding Medicare supplement issues and asked that they be considered if relevant to the proposed amendments to the rule. One of the questions, in particular, is a recurrent question from insurance producers and senior service organizations. The Bureau receives inquiries as to how to assist Medicare beneficiaries who are enrolled Medicare Part A and Part B and also enrolled in a group/employer welfare benefit plan. The question is whether a beneficiary who disenrolls from the employer plan and enrolls in a Medicare Advantage plan will be eligible for the three year Medicare Advantage trial period.

Bureau Response: The answer to the question is "No." Under federal law, the Medicare Advantage trial period is not available to Medicare beneficiaries transitioning directly from group health coverage to Medicare Advantage, except during their initial six-month Medicare Supplement eligibility period. A related question the Bureau often receives is whether it is inappropriate to advise the Medicare beneficiary to enroll briefly in a Medicare supplement plan and then switch to a Medicare Advantage plan if the beneficiary wishes to be eligible for the three-year Medicare Advantage trial period. This practice is not prohibited.

#### Non-substantive/technical changes

The notifications requirements at Section 12(E) and Section 21(D) have been amended by adding the words "for the first time" to the required notice for consistency with Section 12(B)(5)(a), which provides in part: "a. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare Advantage organization..."

After consideration of the comments received, the proposed amendments are adopted without substantive changes.